

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO. 81/2001

- 1) Motilal Poi Angle,
aged 59 years, landlord;
- 2) Manorama Poi Angle,
aged 55 years;
- 3) Kassumakar Poi Angle,
aged 50 years;
- 4) Leena Poi Angle, married,
aged 45 years;
- 5) Sumi Surendra Poi Angle, married,
aged 47 years;
- 6) Mahesh Poi Angle, aged 20 years,
- 7) Rajnikant Poi Angle, aged 57 years,
businessman;

All residents of Kashinath Poi Angle,
Margao, Salcete, Goa.

Appellant Nos. 1 to 6 represented
by Power of Attorney holder
Rajnikant Poi Angle, the
Appellant No. 7.

..... Appellants.

V/s.

- 1) Harris Gomes, major, residing
near Rice & Flour Mill,
Miranda Vaddo, Sarzora,
Chinchinim, Salcete, Goa.
- 2) Land Acquisition Officer,
South Goa Sub-Division,

Quepem-Goa

3) Executive Engineer, P.W.D.
Division XXV, Borda,
Margao, Goa.

4) State of Goa, through its
Chief Secretary, having office
at Secretariat,
Panaji, Goa.

..... Respondents.

Mr. M. S. Sonak, with Ms. P. Bharne, Advocates for the appellants.

Mr. J. Godinho, Advocate for the respondent No.1.

Mr. H. R. Bharne, Government Advocate for the respondents No.2 to 4.

CORAM : R.M. LODHA, J.

DATE : 28TH SEPTEMBER, 2005.

ORAL JUDGMENT

Heard Mr. M.S. Sonak, the learned Counsel for the appellants and Mr. J. Godinho, the learned Counsel for the respondent No.1. The respondents No.2 to 4 are represented by Mr. H. R. Bharne, the learned Government Advocate.

2. At the outset, the learned Counsel for the appellants

submitted that he was not challenging the finding of the trial Court in so far as the rejection of prayer (a) made in the plaint is concerned. The First Appeal is dismissed in so far as prayer of injunction against the respondents no. 2 to 4 is concerned.

3. In so far as prayer (b) is concerned, the learned Counsel for the appellants and the learned Counsel for the respondent No.1 agreed that the Judgment and Decree passed by the III-Additional Civil Judge, Senior Division, Margao on 28.2.2001 may be modified thus and the appeal may be disposed of accordingly:

- i. The respondent No.1 (original defendant No.1) shall pay to the appellants (plaintiffs) a sum of Rs.50,000/- towards their claim in the suit for return of the compensation received by the defendant No.1 for the compulsory acquisition of the portion of the house situate in Survey No.422/10.
- ii. The aforesaid amount of Rs.50,000/- shall be paid by the defendant No.1 to the plaintiffs in two instalments of Rs.30,000/- and Rs.20,000/- respectively. The first instalment of Rs.30,000/- shall

be paid on or before 31st March, 2006 and the second instalment of Rs.20,000/- shall be paid on or before 30th September, 2006. In the event the aforesaid amount of instalments is not paid in time by the defendant No.1, the plaintiffs shall be entitled to the simple interest @ 6 % per annum on the delayed payment.

iii.It is clarified that the plaintiffs shall have no concern whatsoever in the remaining constructed portion existing on the portion of land under survey No.422/10 and in any part of the land thereof.

The Judgment and Decree passed by the III-Additional Civil Judge, Senior Division, Margao on 28.02.2001 stands modified in the terms aforesaid. The First Appeal is partly allowed as indicated above with no order as to costs.

R.M.LODHA, J.

ssm